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APPLICATION NO.	FILI	NG DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/787,368	03.	/14/2001	Chenicheri Hariharan Nair	063373-5030-US	2783	
9629	7590	08/26/2005		EXAMINER		
		BOCKIUS LLP	PHASGE, ARUN S			
1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				ART UNIT	PAPER NUMBER	
,				1753	1753	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)				
	Office Antique Occurrence	.09/787,368	NAIR ET AL.				
	Office Action Summary	Examiner	Art Unit				
		Arun S. Phasge	1753				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
THE I - Exter after - If the - If NO - Failu Any	ORTENED STATUTORY PERIOD FOR REPLING DATE OF THIS COMMUNICATION.  MAILING DATE OF THIS COMMUNICATION.  MISION of time may be available under the provisions of 37 CFR 1.  SIX (6) MONTHS from the mailing date of this communication.  Period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period reto reply within the set or extended period for reply will, by staturely received by the Office later than three months after the mailing patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a reply be oly within the statutory minimum of thirty (30) d will apply and will expire SIX (6) MONTHS frote, cause the application to become ABANDON	timely filed  ays will be considered timely.  m the mailing date of this communication.  NED (35 U.S.C. § 133).				
Status							
1)[	Responsive to communication(s) filed on	<u>_</u> .					
2a) <u></u> ☐	This action is <b>FINAL</b> . 2b)⊠ Thi	s action is non-final.					
3)	Since this application is in condition for allowed	ance except for formal matters, p	rosecution as to the merits is				
	closed in accordance with the practice under	Ex parte Quayle, 1935 C.D. 11,	453 O.G. 213.				
Dispositi	on of Claims						
4)⊠ Claim(s) <u>16-47</u> is/are pending in the application.							
-	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.							
·	Claim(s) <u>16-47</u> is/are rejected.						
	Claim(s) is/are objected to.						
8)	Claim(s) are subject to restriction and/	or election requirement.					
Applicati	on Papers						
9)[	The specification is objected to by the Examin	er.	·				
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority u	inder 35 U.S.C. § 119		,				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:							
1. Certified copies of the priority documents have been received.							
Certified copies of the priority documents have been received in Application No							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.							
Attachment	t(e)						
_	e of References Cited (PTO-892)	4) Interview Summa	ry (PTO-413)				
2) Notice 3) Information	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08 r No(s)/Mail Date	Paper No(s)/Mail					
S Patent and Tr	ademark Office						

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### DETAILED ACTION

### Double Patenting

Claims 45-47 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 44. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The difference in wording does not distinguish the isolated fibrinogen from the product claimed in the other claims, i.e., the isolated fibrinogen purified according to the method of another claim.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 16-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,402,913 in view of Gritzner, U.S. Patent 4,043,895.

The prior patent discloses the claimed method and apparatus for the isolation of at least one blood protein from a mixture comprising the steps of feeding the solutions to the various compartments along the selective membranes, applying the electric potential to cause the migration of the contaminant until the desired purity is obtained (see claims 1-20). The reference further discloses the use of pH to control the migration (see claims 1-20). The patent discloses the same type of membranes (see claims 1-20).

The patent fails to disclose the use of the electrophoretic separation of the blood clotting proteins, such as fibrinogen. The Gritzner patent is cited to show the use of electrophoresis to separate fibrinogen from other proteins (see col. 9, lines 1-9). Accordingly, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the disclosure of the Laustsen patent with the teachings of the Gritzner patent, because the Gritzner patent teaches that electrophoresis of plasma containing fibrinogen results in separation of fibrinogen from other proteins.

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## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- 2. Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 16-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laustsen, U.S. Patent 5,437,774 in view of Gritzner, U.S. Patent 4,043,895 and Margolis, U.S. Patent 5,650,055.

The Laustsen patent discloses the claimed method and apparatus for the isolation of at least one blood protein from a mixture comprising the steps of feeding the solutions to the various compartments along the selective membranes,

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applying the electric potential to cause the migration of the contaminant until the desired purity is obtained (see figure 1 and claims 1-59). The reference further discloses the use of pH to control the migration (see col. 4, lines 35-49). The patent discloses the same type of membranes (see col. 7, lines 5-50).

The reference fails to disclose the use of the electrophoretic separation of the blood clotting proteins, such as fibrinogen. The Gritzner patent is cited to show the use of electrophoresis to separate fibrinogen from other proteins (see col. 9, lines 1-9). Accordingly, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the disclosure of the Laustsen patent with the teachings of the Gritzner patent, because the Gritzner patent teaches that electrophoresis of plasma containing fibrinogen results in separation of fibrinogen from other proteins.

The Laustsen patent further does not disclose the reversal of polarity as claimed. The Margolis patent is cited to teach the reversal of polarity to obtain the desire purity of the macromolecule (see abstract).

Consequently, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the disclosure of the Laustsen patent with the teachings of the Margolis patent,

because the Margolis patent teaches the use of a reversal of polarity to obtain a desired purity.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Phasge whose telephone number is (571) 272-1345. The examiner can normally be reached on MONDAY-THURSDAY, 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <a href="http://pair-direct.uspto.gov">http://pair-direct.uspto.gov</a>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Arun S. Phasge Primary Examiner

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